IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

RSA.No.55/1996.

Date of Decision :11.6.2007...

Basant Ram & Ors (L.Rs.) .Appellants.

Versus:

State of H.P. ..Respondent.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the appellants: Mr.Ramakant Sharma, Advocate.

For Respondent. Mr.C.B.Singh, Dy.Advocate General.

Sanjay Karol,J (Oral).

According to the appellant, he is in continuous and un-interrupted possession of land measuring 6273 Sq.metres bearing old Khasra No.207/2 corresponding to new Khasra No.776 Khata No.74 min, Khatauni No.240. His suit for declaration and permanent injunction to the effect that he is the tenant/owner and that he should not be dispossessed there from was dismissed by the Sub Judge, Ist Class (I), Hamirpur on 24th October, 1989, he

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

preferred an appeal against the said decree in the Court of District Judge, Hamirpur being Civil Appeal No. 21 of 1990 titled Sukh Ram Vs. State of H.P. which was also dismissed on 22nd January, 1996. However, while dismissing the appeal, the learned Judge has observed as under:

> "Hence the findings of the lower Court on issues at serial No. 1 to 4 warrant no interference as these are based on appreciation of evidence in its correct perspective. However, it is significant to observe here that keeping in view the long possession of the plaintiff the defendant/State may sympathetically and reasonably consider the case of the plaintiff for regularization of his possession instead of ejecting him on the basis of the Order dated 5.3.87 passed by the S.D. (C., Hamirpur."

The learned counsel for the petitioner emphasized that no decision has been taken by the authorities in this regard. He submits that he has instruction not to press the present appeal if the respondent-authority was to consider favourably regularizing the possession of the appellant as has been observed by the Appellate Court.

I am of the view that the request of the learned counsel for the appellant is not un-reasonable. Even though the trial Court has held that the possession of the appellant is not that of a tenant and that the appellant has not become owner by way of adverse possession, however, the learned appellate authority had directed the authorities to sympathetically and reasonably consider

the case of the appellant for regularization. Admittedly, the appellant is in possession of the suit land since 1950. He has constructed a house and has improved the land by making development there upon.

In view of the aforesaid facts and circumstances of the case, the request of the appellant is accepted with direction to the respondent to sympathetically and reasonably consider the case of the appellant for regularization of his possession in accordance with law as observed by the appellate authority. In view of the same, the present Regular Section Appeal is disposed of as not pressed with the aforesaid observations.

(**Sanjay karol),**
Judge.

June 11, 2007(R)